

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Anoka County,

Complainant,

vs.

Kevin Ryan,

Respondent.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

TO: Kevin Ryan, 23110 W. Martin Lake Dr., Stacy, MN 55079; and Steve Novak, Anoka County Elections, 325 E. Main Street, Anoka, MN 55303.

On December 22, 2004, the County of Anoka filed a Complaint with the Office of Administrative Hearings alleging that Kevin Ryan violated Minn. Stat. §§ 211A.02, subd. 1(b)(3) by failing to timely file a campaign financial report. After reviewing the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of section 211A.02, subd. 1(b)(3). This determination is described in more detail in the attached Memorandum.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a prehearing conference and evidentiary hearing to be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the prehearing conference and evidentiary hearing, and the three judges assigned to it, within one week of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the evidentiary hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: December 23, 2004

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

Pursuant to Minnesota Statutes § 211A.02, subd. 1, candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year, must file financial reports with the "filing officer"^[1] for that office. In addition to an initial financial report, a candidate or committee must also file a report 30 days after a general or special election.^[2] If a candidate or committee fails to file a required financial report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file.^[3] If the report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.^[4]

Kevin Ryan was a candidate for Anoka County Commissioner for District 6 in the November 2, 2004, election. According to the complaint, Mr. Ryan failed to file the required financial report within 30 days after the election, as required by Minn. Stat. § 211A.02, subd. 1(b)(3). Gary Poser is the Anoka County Supervisor of Elections. The Complaint alleges that on December 6, 2004, Mr. Poser mailed a letter to Mr. Ryan notifying him that he had failed to file the financial report that was due December 2, 2004. Mr. Posner further advised Mr. Ryan that, pursuant to Minn. Stat. § 211A.05, subd. 2, he was required to submit the report to the County within 10 days of the date of the letter or the County would file a complaint with the Office of Administrative Hearings. To date, the County has not received the financial report from Mr. Ryan.

Because Mr. Ryan has not filed the financial report due December 2, 2004, the Complaint states a prima facie violation of Minn. Stat. § 211A.02, subd. 1(b)(3). Pursuant to Minn. Stat. § 211B.33, subd. 2(d), this matter shall be set on for an evidentiary hearing before a panel of three administrative law judges.

B.L.N.

^[1] Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

^[2] Minn. Stat. § 211A.02, subd. 1(b)(3).

^[3] Minn. Stat. § 211A.05, subd. 2.

^[4] Minn. Stat. § 211A.05, subd. 2.